

The House Committee on Public Safety & Homeland Security offers the following substitute to HB 944:

A BILL TO BE ENTITLED
AN ACT

To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, so as to change certain provisions relating to suspension or revocation of the licenses of habitually negligent or dangerous drivers and the point system; to change certain provisions relating to drivers' exercise of due care; to prohibit use of wireless telecommunications devices by persons under 18 years of age with an instruction permit or Class D license while operating a motor vehicle; to provide penalties for violations; to exempt headsets used for communication purposes; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended by revising subparagraph (c)(1)(A) of Code Section 40-5-57, relating to suspension or revocation of the licenses of habitually negligent or dangerous drivers and the point system, as follows:

"(c)(1)(A) Except as provided in subparagraph (C) of this paragraph, the points to be assessed for each offense shall be as provided in the following schedule:

- Aggressive driving. 6 points
- Reckless driving. 4 points
- Unlawful passing of a school bus. 6 points
- Improper passing on a hill or a curve. 4 points
- Exceeding the speed limit by more than 14 miles per hour but less than 19 miles per hour. 2 points
- Exceeding the speed limit by 19 miles per hour or more but less than 24 miles per hour. 3 points
- Exceeding the speed limit by 24 miles per hour or more but less than 34 miles per hour. 4 points

27	Exceeding the speed limit by 34 miles per hour or more.	6 points
28	Disobedience of any traffic-control device or traffic officer.	3 points
29	Too fast for conditions.	0 points
30	Possessing an open container of an alcoholic beverage while driving.	2 points
31	Failure to adequately secure a load, except fresh farm produce,	
32	resulting in loss of such load onto the roadway which results in	
33	an accident.	2 points
34	Violation of child safety restraint requirements, first offense.	1 point
35	Violation of child safety restraint requirements, second or	
36	subsequent offense.	2 points
37	<u>Operating a vehicle while engaging in a wireless communication</u>	
38	<u>(under 18).</u>	<u>2 points</u>
39	All other moving traffic violations which are not speed limit	
40	violations.	3 points"

41 SECTION 2.

42 Said title is further amended by inserting a new Code section to read as follows:

43 "40-5-57.4.

44 (a) The driver's license of any operator of a motor vehicle who is determined to be at fault
 45 for causing an automobile accident while violating Code Section 40-6-241.1 shall be
 46 suspended as provided in this Code section.

47 (b)(1) A first suspension of a driver's license under this Code section shall be for a period
 48 of 90 days or until the offender turns 18 years of age, whichever is shorter.

49 (2) A second or subsequent suspension of a driver's license under this Code section shall
 50 be for a period of six months or until the offender turns 18 years of age, whichever is
 51 shorter.

52 (c) After the suspension period and when the person pays a restoration fee of \$60.00 or,
 53 when processed by mail, \$50.00, the suspension shall terminate."

54 SECTION 3.

55 Said title is further amended by revising Code Section 40-6-241, relating to drivers' exercise
 56 of due care and proper use of radios and mobile telephones, as follows:

57 "40-6-241.

58 A driver shall exercise due care in operating a motor vehicle on the highways of this state
 59 and shall not engage in any actions which shall distract such driver from the safe operation
 60 of such vehicle, provided that, except as prohibited by Code Section 40-6-241.1, the proper

use of a radio, citizens band radio, ~~or~~ mobile telephone, or amateur or ham radio shall not be a violation of this Code section."

SECTION 4.

Said title is further amended by inserting a new Code section to read as follows:

"40-6-241.1.

(a) As used in the Code section, the term:

(1) 'Engage in a wireless communication' means talking, writing, sending, or reading a text-based communication, or listening on a wireless telecommunications device.

(2) 'Wireless telecommunications device' means a cellular telephone, a text-messaging device, a personal digital assistant, a stand alone computer, or any other substantially similar wireless device that is used to initiate or receive a wireless communication with another person. It does not include citizens band radios, citizens band radio hybrids, commercial two-way radio communication devices, subscription-based emergency communications, in-vehicle security, navigation, and remote diagnostics systems, or amateur or ham radio devices.

(b) Except in a driver emergency and as provided in subsection (c) of this Code section, no person who has an instruction permit or a Class D license and is under 18 years of age shall operate a motor vehicle on any public road or highway of this state while engaging in a wireless communication using a wireless telecommunications device.

(c) The provisions of this Code section shall not apply to a person who has an instruction permit or a Class D license and is under 18 years of age who engages in a wireless communication using a wireless telecommunications device to do any of the following:

(1) Report a traffic accident, medical emergency, or serious road hazard;

(2) Report a situation in which the person believes his or her personal safety is in jeopardy;

(3) Report or avert the perpetration or potential perpetration of a criminal act against the driver or another person; or

(4) Engage in a wireless communication while the motor vehicle is lawfully parked.

(d)(1) Any conviction for a violation of the provisions of this Code section shall be punishable by a fine of not less than \$50.00 nor more than \$100.00. The provisions of Chapter 11 of Title 17 and any other provision of law to the contrary notwithstanding, the costs of such prosecution shall not be taxed nor shall any additional penalty, fee, or surcharge to a fine for such offense be assessed against a person for conviction thereof. The court imposing such fine shall forward a record of the disposition of the case of unlawfully operating a motor vehicle while using a wireless telecommunications device to the Department of Driver Services.

(2) If the operator of the moving motor vehicle causes an accident at the time of a violation of this Code section, then the fine shall be equal to double the amount of the fine imposed in paragraph (1) of this subsection and the operator's driver's license shall be suspended pursuant to the provisions of Code Section 40-5-57.3. The suspension of the driver's license shall be implemented only upon a finding that the operator of the motor vehicle was at fault in causing the automobile accident. The law enforcement officer investigating the accident shall indicate on the written accident form any evidence that such operator was engaging in a wireless communication at the time of the accident."

SECTION 5.

Said Title is further amended in Code Section 40-6-250 of the Official Code of Georgia Annotated, relating to wearing a device which impairs hearing or vision while operating a motor vehicle, as follows:

"40-6-250.

No person shall operate a motor vehicle while wearing a headset or headphone which would impair such person's ability to hear, nor shall any person while operating a motor vehicle wear any device which impairs such person's vision; provided, however, that a person may wear a headset or headphone for communication purposes ~~only while operating a motorcycle. This Code section shall not apply to hearing aids or instruments for the improvement of defective human hearing, eyeglasses, or sunglasses. This Code section shall not apply to any law enforcement officer or firefighter equipped with any communications device necessary in the performance of such person's duties."~~

SECTION 6.

This Act shall become effective on July 1, 2010, and shall apply to offenses committed on or after such date.

SECTION 7.

All laws and parts of laws in conflict with this Act are repealed.